

Internal Revenue Service

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Department of the Treasury

Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:PSI:B02

PLR-151241-08

Date:

March 20, 2009

Legend

X =

Y =

Z =

State 1 =

State 2 =

Date 1 =

Date 2 =

Date 3 =

Date 4 =

Dear :

This responds to letter dated November 24, 2008 submitted on behalf of X, requesting relief under § 1362(f) for an inadvertently ineffective qualified subchapter S subsidiary (QSub) election.

The information submitted states that X was incorporated under the laws of State 1 as of Date 1. On Date 2, Y was incorporated under the laws of State 2. Between Date 2 and Date 3, Y filed returns as a corporation for federal tax purposes. X filed a timely election under § 1362(a) to be treated as an S corporation effective beginning on Date 3.

X had intended to elect to treat Y as a QSub effective as of Date 4. However, the QSub election was ineffective due to procedural defects. In addition, the QSub election was also ineffective because Z was a shareholder of Y at the time of election. After having discovered that Z was a shareholder in Y, all parties involved took corrective action to restore Y's status as an eligible QSub. X, Y and Z have agreed to make any adjustments that the Commissioner may require, consistent with the treatment of Y as a QSub.

Section 1362(f) provides, in part, that if (1) an election under § 1362(a) or § 1361(b)(3)(B)(ii) by any corporation was terminated under § 1362(d)(2), (2) the Secretary determines that the circumstances resulting in such termination were inadvertent, (3) no later than a reasonable period of time after discovery of the circumstances resulting in such termination, steps were taken so that the corporation for which the termination occurred is a small business corporation or a QSub, and (4) the corporation for which the termination occurred, and each person who was a shareholder in such corporation at any time during the period specified pursuant to § 1362(f), agrees to make adjustments (consistent with the treatment of the corporation as an S corporation or a QSub) as may be required by the Secretary with respect to such period, then, notwithstanding the circumstances resulting in such termination, such corporation shall be treated as an S corporation or a QSub during the period specified by the Secretary.

Pursuant to the provisions of § 1362(f), Y will be treated as a QSub from Date 4 and thereafter, provided that its election is not otherwise terminated. Accordingly, Y must, within sixty (60) days from the date of this letter, elect to be treated as a QSub for federal tax purposes effective Date 4. The election should be made by filing Form 8869, Qualified Subchapter S Subsidiary Election, with the appropriate service center. A copy of this letter should be attached to the election.

Except as specifically ruled above, we express no opinion concerning the federal tax consequences of the transactions described above under any other provisions of the Code. This ruling is directed only to the taxpayer that requested it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

Pursuant to a power of attorney on file, a copy of this letter is being sent to X.

Sincerely,

Bradford R. Poston
Senior Counsel, Branch 2
(Passthroughs & Special Industries)

Enclosures (2)
Copies of this letter
Copy for § 6110 purposes